UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ADWEEK LLC, Plaintiff,

v.

BRAND INNOVATORS, LLC, MARC STERNBERG, BRANDON P. GUTMAN, and ONE OR MORE JOHN/JANE DOE(S)

Defendants.

Civil Action No.

COMPLAINT FOR TRADEMARK INFRINGEMENT, CYBERSQUATTING AND UNFAIR COMPETITION

JURY TRIAL DEMANDED

ADWEEK LLC (hereinafter "Plaintiff" or "ADWEEK") brings forth this action against Brand Innovators, LLC, Marc Sternberg, Brandon P. Gutman, and One or More John Doe(s) (hereinafter collectively referred to as "Defendants" or "Brand Innovators") and complains and alleges as follows:

INTRODUCTION

1. This is an action for federal trademark infringement and false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1051 *et seq.*; common law trademark infringement under the laws of New York; and unfair competition under the laws of New York against Brand Innovators for its use of ADWEEK's BRANDWEEK mark on or in connection with the offer and provision of goods and/or services.

PARTIES

2. Plaintiff ADWEEK is a Delaware limited liability company having a place of business at 825 8th Avenue, New York, NY 10019.

3. Upon information and belief, Defendant Brand Innovators, LLC was organized under the laws of the state of Delaware in 2011 as a limited liability company having a place of business at 450 N. Carmelina Ave., Los Angeles, CA 90049, thereafter, Brand Innovators LLC identified a registered agent of VCORP Services, LLC, with an address at 1013 Center Road Suite 403-B, Wilmington, DE 19805.

4. Upon information and belief, Defendant Marc Sternberg (hereinafter "Sternberg") is an individual with an address at 18 Green Knoll Ct., Northport, NY 11768 and, Sternberg is a principal, owner, investor, or employee of the Delaware entity, Brand Innovators, LLC, and doing business under the entity, Brand Innovators, LLC. Sternberg is the owner and registrant of a number of domains that utilize the trademark BRANDWEEK as part of the domain.

5. Upon information and belief, Defendant Brandon P. Gutman (hereinafter "Gutman") is an individual with an address at 25 Spruce Hill Road, Weston, CT 06883 and, Gutman is a principal, owner, investor, or employee of the Delaware entity, Brand Innovators, LLC, and doing business under the entity, Brand Innovators, LLC.

6. Upon information and belief Defendant(s) One or More John/Jane Doe(s) are individuals or entities that are principals, owners, investors, employees, or corporate parent or affiliated entities of the Delaware entity, Brand Innovators, LLC and these John/Jane Doe(s) are doing business under the entity Brand Innovators, LLC.

7. Upon information and belief the One or More John/Jane Doe(s) include at least the individuals identified as “David Teicher”, “Ted Rubin” “John DeMarco”, “Steve Gertz”, “Trey Holder”, “Scott McNealy”, “Ian O’Donnell”, “Brian Solis”, “Madhur Aggarwal”, “Susan W. Allen”, “Ryan Bonifacino”, “Douglas Busk”, “Patrick Cassidy”, “Erin Cast”, “Tracy Chavez”, “Cindy Chen”, “Daniel R. Clarke”, “Charlie Cole”, “Geoff Colon”, “Erick Dickens”, “Pam El”, “Nicole Fraley”, “Mayur Gupta”, “Kirk Heinlein”, “Scott Hudler”, “Jason John”, “Adam Kmiec”, “John Koller”, “Roger Koman”, “Boon Lai”, “Victor Lee”, “PJ Lewis”, “Tressie Lieberman”, “Fernando Machado”, “Andrew Marcowitz”, “Tara McRae”, “Karl Miller”, “Lee Nadler”, “Ashwin Nathan”, “Marc Patrick”, “Deb Radcliff”, “Steve Sommers”, “Dave Spinato”, “Chad Stubbs”, “Greg Weiss”, “Colin Westcott-Pitt”, “Ethelbert Williams” on Defendants website Brand-Innovators.com, whose addresses are unknown to Plaintiff at this time.

8. Plaintiff reserves the right to add additional defendants as their identities become known.

JURISDICTION AND VENUE

9. This Court has jurisdiction pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, and 1338(a) over the federal trademark infringement and unfair competition, which arise under the Federal Lanham Act, 15 U.S.C. §§ 1051 *et seq*.; and the Court has jurisdiction pursuant to 28 U.S.C. §§ 1338(b) and 1367 over the unfair competition claim and trademark infringement claim under New York law.

10. Venue is proper in this judicial district under 28 U.S.C. § 1391.

11. Upon information and belief, this Court has jurisdiction over each and every one of the Defendants because Defendants committed acts of trademark infringement in this district,

causing injury to Plaintiff in this state and district; and upon information and belief, Defendants regularly transacts business and has purposely targeted its activities in this district, including the advertising and sale of the products/services at issue through the Internet to New York residents and New York entities, and via summits held in New York City. Screenshots of the Brand Innovators, LLC website http://brand-innovators.com/brandweeknewyork/ are found at Exhibits 1 thru 12, 12A and 12B.

12. Defendants have purposely availed themselves to this state and this district at least as evidenced by Defendants' website (Brand-Innovators.com) which is accessible from this state and district and further identifies hosts of Defendant's summits held in New York City and such hosts have offices in the state of New York and many in New York City, specifically: KIND, Coach, Spotify, Weightwatchers. Screenshots of the Brand Innovators, LLC website http://brand-innovators.com/brandweeknewyork/sponsors-6-17/ are found at Exhibit 13.

13. Defendants have purposely availed themselves to this state and this district at least as evidenced by Defendants' website (Brand-Innovators.com) which is accessible from this state and district and further identifies Sponsors of Defendant that do business, are located in or have offices in the state of New York and many in New York City, specifically, Sponsors of Defendants summits in New York City having offices in New York include AOL Inc., Twitter; Yahoo Inc.; Caruesele; Crowdtwist Inc.; Dstillery; Havas PR North America; Havas Formula; Cake New York; Weight Watchers; W20 Group, Foursquare; Gumgum; Fluent LLC; NetBase; networked Insights; Outbrain Inc.; Popsugar; Tongal Inc.; Visual IQ; xAd, Inc; Yext; Zefr; Lingia; Sharethrough; Pear. Screenshots listing the Sponsors of Brand Innovators, LLC website Brand-Innovators.com are found at Exhibits 14 and 15.

14. Defendants have purposely availed themselves to this state and this district at least

as evidenced by Defendants' website (Brand-Innovators.com) which is accessible from this state and district and further identifies Advisors of Defendant that do business, are located in or have offices in the state of New York and many in New York City. Screenshots of the Brand Innovators, LLC website Brand-Innovators.com are found at Exhibits 16 and 17.

15. This Court has personal jurisdiction over the individual defendants, Sternberg and Gutman, and One or More John/Jane Doe(s) because these individuals are doing business in this state and district under the entity, Brand Innovators, LLC. Therefore, Sternberg, Gutman and One or More John/Jane Doe(s) have forfeited the limited liability protections of entity formation and therefore these defendants are acting and doing business as individuals in this state and district and may be held liable as individuals. Sternberg is the owner and registrant of domains that incorporate the BRANDWEEK trademark.

FACTUAL BACKGROUND

16. Plaintiff ADWEEK is the leading source of news for marketing, media, and advertising professionals since 1978. ADWEEK delivers insightful, forward-thinking content across various platforms, including weekly print magazines, iPad apps, newsletters, social media, original videos, events, and awards.

17. Plaintiff markets its products and services under the brand BRANDWEEK and began using BRANDWEEK as a trademark at least as early as July, 1992.

18. BRANDWEEK was a coined term first created by Plaintiff for use in connection with its product and service offerings.

19. Plaintiff is the owner of the incontestable Federal Trademark Registration No. 1,820,584 for BRANDWEEK in Class 016 for periodical magazines in the fields of advertising and marketing (attached as Exhibit 18 and Assignment to Plaintiff attached as Exhibit 19) and

Plaintiff is the owner of incontestable Federal Trademark Registration No. 2,331,543 for BRANDWEEK.COM in Class 042 for computer services, namely, providing on-line magazines in the field of advertising, marketing and mass communications, namely, television and radio shows and programming (attached as Exhibit 19 and Assignment to Plaintiff attached as Exhibit 19) (hereinafter the "Registrations"). The Registrations were duly registered by the US Patent and Trademark Office on February 8, 1994 and March 21, 2000, respectively. Copies of the registration certificates are enclosed at Exhibits 18 and 20 and incorporated by reference herein.

20. Attached as Exhibits 21 thru 26 are specimens and evidence of the Plaintiff's continuous use its BRANDWEEK mark since 1992 thru present. Evidence consists of specimens submitted to the U.S. Patent and Trademark Office upon registration, maintenance, renewals, archived web pages, samples of publications, articles and advertisements.

21. As a result of Plaintiff's continuous use of Plaintiff's BRANDWEEK mark, the inherent distinctiveness, the extent and duration of its use, geographic scope, extent of our advertising and sales, media publicity, exposure of the mark and consumer recognition, Plaintiff's BRANDWEEK® mark is famous in the industry.

22. Plaintiff registered the domain BRANDWEEK.COM on May 16, 1995 via its predecessors and Plaintiff is the present owner of the domain BRANDWEEK.COM. The domain BRANDWEEK.COM has been in use since at least as early as 1996. Attached as Exhibit 27 is the whois record for BRANDWEEK.COM. Attached as Exhibits 28A, 28B and 28C are the archived web pages showing the Plaintiff's continuous use of the domain since 1996 https://web.archive.org/web/19961227132714/http://www.brandweek.com:80/.

23. Upon information and belief Sternberg was employed by The Hollywood Reporter (formerly VNU Business Media) for 17 years from 1989 thru 2007, an entity related to

the Plaintiff through acquisitions and related companies. Attached as Exhibit 29 is Sternberg's LinkedIn profile.

24. Upon information and belief Sternberg purchased and registered the domains BRANDWEEK.NET, BRANDWEEK.ORG, BRANDWEEK.INFO, BRANDWEEKNY.COM, BRANDWEEKNY.NET, BRANDWEEKNY.ORG, BRANDWEEKNY.INF; BRAND-WEEK.COM, BRAND-WEEK.INFO, BRAND-WEEK.NET and BRAND-WEEK.ORG on February 11, 2013 ("Defendants' Domains"). At the time of the purchase of the Defendants' Domains, Plaintiff already owned the BRANDWEEK.COM domain since 1995 and Plaintiff already owned Plaintiff's mark BRANDWEEK® and owned the Registrations since 1994 and 2000. Copies of the whois records showing that Defendant Marc Sternberg is the owner of Defendants Domains are attached as Exhibit 30.

25. In common industry practices, the ".com" extension is preferred and commonly the first extension searched for by someone looking for a domain to purchase, with ".net" being the second, therefore, upon information and belief, when searching for the purchased Domains identified in Section 26, Sternberg was aware that BRANDWEEK.COM was already owned by Plaintiff.

26. Upon information and belief, Defendants provide summits, content, networking services and website services in the field of marketing and advertising including the use of technology, social media, content marketing, mobile, digital video advertising, data and analytics, marketing automation, and Ecommerce for brand owners, advertisers, marketers and consumers (Defendants' Services"). Upon information and belief, Defendants' Services are provided via the website Brand-Innovators.com, and via summits and via various digital advertising campaigns.

27. Upon information and belief Defendants began using the names BRAND WEEK; BRAND WEEKS; BRAND WEEK CHICAGO; BRAND WEEK NEW YORK; BRAND WEEK SO CAL; BRAND WEEK SAN FRANCISCO for providing summits, content, networking services and website services in the field of marketing and advertising including the use of technology, social media, content marketing, mobile, digital video advertising, data and analytics, marketing automation, and Ecommerce for brand owners, advertisers, marketers and consumers. At the time of this use of the names, Plaintiff already owned the BRANDWEEK trademark and the Registrations and the BRANDWEEK.COM domain.

28. Defendants' website at www.brand-innovators.com references Plaintiff's BRANDWEEK® awards as shown in attached Exhibits 31 and 32 and therefore Defendants were aware that Plaintiff's BRANDWEEK mark was still in use.

29. Upon information and belief Defendant Gutman took Plaintiff's article and retweeted it under the Defendants company name Brand Innovators. A copy of Plaintiff's original article is attached at Exhibit 33 and a copy of the tweet showing Defendants passing off the article as its own is attached as Exhibits 34 and 35. This constitutes direct passing off.

30. Upon information and belief, as a former employee of VNU Business Media, Sternberg was personally aware that the BRANDWEEK® mark and the Registrations were owned by Plaintiff prior to registering Defendants Domains and prior to commencing use of the names BRAND WEEK; BRAND WEEKS; BRAND WEEK CHICAGO; BRAND WEEK NEW YORK; BRAND WEEK SO CAL; BRAND WEEK SAN FRANCISCO.

31. Upon information and belief, Defendants have used Plaintiff's Mark BRANDWEEK as a metatag and keyword in search engine marketing and advertising tools,

including Google and others in violation of Plaintiff's rights. Attached as Exhibit 36 is evidence of Defendants' use of BRANDWEEK as a keyword on Google.

32. Defendant Brand Innovators, LLC was organized in 2011, well after Plaintiff's 1992 first use of the BRANDWEEK mark, and Defendants did not use BRANDWEEK prior to Plaintiff's first use.

33. The terms BRAND WEEK; BRAND WEEKS; BRAND WEEK CHICAGO; BRAND WEEK NEW YORK; BRAND WEEK SO CAL; BRAND WEEK SAN FRANCISCO used by Defendants is identical to Plaintiff's Registrations for BRANDWEEK.

34. Upon information and belief, Plaintiff and Defendants are competitors and both Plaintiff and Defendants provide content and information for marketing, media, and advertising professionals; and both Plaintiff and Defendant provide content across various platforms, including websites, social media and events.

35. Upon information and belief, Defendants' and Plaintiff's services travel through identical or almost identical commercial channels and targeted at the same or substantially overlapping customer groups because the services provided are directed to brand marketers, advertisers, brand owners and consumers.

36. Upon information and belief, Plaintiff and Defendants' services are supplied in the same or similar geographic areas, including the state of New York and the city of New York.

37. Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO is likely to cause confusion, mistake or deception among the public who will be confused, mistaken and deceived into believing that Defendants' services sold and marketed under BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW

YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO are sponsored by, affiliated with, and/or authorized by Plaintiff.

38. Upon information and belief, Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO has misappropriated and continues to misappropriate the goodwill that Plaintiff has built in its usage of the BRANDWEEK® mark.

39. Upon information and belief, Defendants' activities have caused and continue to cause irreparable injury to Plaintiff's reputation and goodwill.

40. Upon information and belief, Defendants has profited and continue to profit from its unlawful acts.

41. Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO, if not enjoined by this court, has mislead and will continue misleading the public and causing irreparable damage and harm to Plaintiff and the public.

42. Upon information and belief, at the time Defendants adopted the names of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO and the Defendants Domains, Defendants did so with full knowledge of Plaintiff's use of its BRANDWEEK® mark and Plaintiff's use of BRANDWEEK.COM and Plaintiff's existing rights to BRANDWEEK.

43. Defendants' website (Brand-Innovators.com) lists an address of 450 N. Carmelina Ave., Los Angeles, CA 90049. On February 28, 2017 and April 21, 2017 and May 30, 2017,

Plaintiff sent Defendants and Defendants' counsel letters advising Defendant of Plaintiff's rights to BRANDWEEK®. Copies of the letters are attached as Exhibits 37, 38 and 39, respectively.

44. The February 28, 2017 and April 21, 2017 and May 30, 2017 letters were delivered to Defendants via email and receipt was received and confirmed by Defendants and Defendants' counsel. Copies of the receipts are attached as Exhibits 40, 41 and 42.

45. After the letters were delivered, Defendants continued to update their website Brand-Innovators.com to progressively expand their marketing efforts and scope of offerings under the names BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO and continuously encroach on Plaintiff's rights.

46. An attorney representing Brand Innovators, LLC responded to Plaintiff's counsel via e-mail and letter and argued that Brand Innovators LLC did not infringe Plaintiff's rights and that Defendants us of BRAND WEEK is "merely descriptive" shown in Exhibit 42.

47. Defendants had notice of Plaintiff's inherent trademark rights and Plaintiff's Federal Trademark Registration rights prior to the inception of Defendants company and Defendants have progressively expanded their offerings and marketing efforts in willful violation of Plaintiffs rights.

48. The intentional and willful nature of Defendants' unlawful acts renders this an exceptional case within the meaning of 15 USC §1117(a).

COUNT I
Federal Trademark Infringement Under 15 U.S.C. § 1114

49. Plaintiff repeats and re-alleges the allegations contained in the prior paragraphs of this Complaint and incorporates them herein by reference.

50. Defendants use of BRAND WEEK, BRAND WEEKS, BRAND WEEK

CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO for its services, which is identical to Plaintiff's Registration for BRANDWEEK constitutes trademark infringement and gives rise to a likelihood of confusion, deception, and mistake among the public.

51. Upon information and belief, Defendant adopted and used the BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO names with the willful purpose and intent of misleading the public and trading upon the goodwill and reputation associated with Plaintiff's Registrations.

52. These acts violate the United States Lanham Act and constitute infringement of Plaintiff's registered trademark, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114 *et seq*.

53. As a result of Defendants infringing activities, the public is likely to be and has already been confused, misled or deceived as to the source, origin or sponsorship of Defendants' services, and Plaintiff has suffered irreparable injury for which it has no adequate remedy at law.

COUNT II
False Designation of Origin Under 15 U.S.C. § 1125(a)

54. Plaintiff repeats and re-alleges the allegations contained in the prior paragraphs of this Complaint and incorporates them herein by reference.

55. Defendants' use of the BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO names constitutes offering for sale and selling services in interstate commerce using false and misleading descriptions and representations of fact, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

56. Upon information and belief, Defendants adopted and used the BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO with the knowledge that it was misleading, and deceptive, and with the intent to compete unfairly with Plaintiff and to misappropriate the goodwill of Plaintiff.

57. Upon information and belief, Defendants have republished Plaintiff's article via Twitter and have routinely referenced Plaintiff's BRANDWEEK® awards on Defendants site. Such practice constitutes passing off and false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

58. As a result of Defendants activities, the public is likely to be confused, misled, or deceived about the sources of Defendants' services, and Plaintiff is now and will continue to suffer irreparable injury to its goodwill and reputation, for which it has no adequate remedy at law.

COUNT III
Dilution

59. Plaintiff repeats and re-alleges the allegations contained in the prior paragraphs of this Complaint and incorporates them herein by reference.

60. The BRANDWEEK Mark has become famous and distinctive throughout the United States and throughout the world through Plaintiff's continuous and exclusive use of the mark in connection with Plaintiff's services and goods.

61. Because Plaintiff's services have gained a reputation for excellence, the BRANDWEEK Mark, which is always used in connection with Plaintiff's services defined above, have gained substantial fame, renown, and good will in the United States and throughout

the world.

62. Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO as trademarks and registration of Defendants Domains has caused and continues to cause irreparable injury to and dilution of the BRANDWEEK Marks' distinctive quality in violation of Plaintiff's rights under 15 U.S.C. § 1125 (c). Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO dilutes, blurs, tarnishes, and whittles away the distinctiveness of Plaintiff's BRANDWEEK Mark. Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO further misappropriates the good will of the BRANDWEEK Family of Mark.

63. As a direct and proximate result, Plaintiff has suffered and continues to suffer irreparable harm to its valuable BRANDWEEK Mark. Unless the BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO names are removed from all signage and advertising, websites, content, and the Defendants Domains are transferred and/or forfeited to Plaintiff, Plaintiff will continue to be irreparably harmed.

64. Plaintiff has no adequate remedy at law that will compensate it for the continued and irreparable harm it will suffer if the signage and advertising is not removed and if the Domain Names are not transferred and/or forfeited to Plaintiff.

COUNT IV
Trademark Infringement Under New York Law

65. Plaintiff repeats and re-alleges the allegations contained in the prior paragraphs of this Complaint and incorporates them herein by reference.

66. This claim is against Defendants for common law trademark infringement.

67. In addition to the Registration owned by Plaintiff, as set forth above, Plaintiff's BRANDWEEK® mark enjoys common law rights in New York and throughout the United States. These rights are senior and superior to any rights which Defendants may claim.

68. Defendants' use of BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO is intentionally designed to mimic Plaintiff's BRANDWEEK® mark so as to cause confusion regarding the source of Defendants' services in that purchasers thereof will be likely to associate or have associated such products with, as with originating with, or as approved by Plaintiff, all to the detriment of Plaintiff.

69. Defendants' infringement will continue unless enjoined by the Court.

COUNT V
Unfair Competition Under New York Law

70. Plaintiff repeats and re-alleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

71. Defendants' acts as described above constitute unfair competition under New York law.

72. Defendants adopted the BRANDWEEK mark with actual knowledge that it belonged to Plaintiff and with the intention of providing services that compete directly with Plaintiff under

the mark to interfere with Plaintiff rights in the mark and to divert business away from Plaintiff and to pass off on Plaintiff's established good will under its Trademark and Registrations.

73. Defendants' acts constitute unfair competition under the laws of New York and Plaintiff will be irreparably harmed unless Defendants use of the names BRAND WEEK, BRAND WEEKS, BRAND WEEK CHICAGO, BRAND WEEK NEW YORK, BRAND WEEK SO CAL, and/or BRAND WEEK SAN FRANCISCO is enjoined by the Court.

COUNT VI

Anticybersquatting Under Section 43(d) Of The Lanham Act

74. Plaintiff repeats and re-alleges each and every allegation in the foregoing paragraphs as if fully set forth herein.

75. Section 43(d)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(d)(1), provides that

> A person shall be liable in a civil action by the owner of a mark, including a personal name, which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person- (ii) registers, traffics in, or uses a domain name that (I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark (II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark; or (III) is a trademark, word, or name protected by reason of section 706 of title 18, United States Code, or section 220506 of title 36, United States Code.

76. Defendants activities constitute cybersquatting because Defendants have registered, trafficked and used monetized parking pages with at least the eleven (11) domains BRANDWEEK.NET, BRANDWEEK.ORG, BRANDWEEK.INFO, BRANDWEEKNY.COM, BRANDWEEKNY.NET, BRANDWEEKNY.ORG, BRANDWEEKNY.INF; BRAND-WEEK.COM, BRAND-WEEK.INFO, BRAND-WEEK.NET and BRAND-WEEK.ORG that are identical to Plaintiff's distinctive mark BRANDWEEK which is covered by the Registrations and Plaintiff's domain BRANDWEEK.COM.

77. Plaintiffs are entitled to actual damages or alternately statutory damages of $1,000 to $100,000 per domain name as provided by 15 U.S.C. § 1117(d) .

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. An order immediately and permanently enjoining Defendants, its officers, members, agents, servants, employees, attorneys, and all persons in active concert or participating with any of them, from:

i. advertising, marketing, promoting, selling or otherwise offering for sale any good or service that is confusingly similar to Plaintiff's BRANDWEEK mark, any derivation or colorable imitation thereof, or any mark confusingly similar thereto;

ii. making or employing any other commercial use of Plaintiff's BRANDWEEK mark, any derivation or colorable imitation thereof, or any mark confusingly similar thereto;

iii. using any other false designation of origin or false description or representation or any other thing calculated or likely to cause confusion or mistake in the mind of the trade or public or to deceive the trade or public into believing that Defendants' services or activities are in any way sponsored, licensed or authorized by or affiliated or connected with Plaintiff;

iv. using BRANDWEEK or BRAND WEEK as a keyword or metatag in any of its websites and domains;

v. doing any other acts or things calculated or likely to cause confusion or mistake in the mind of the public or to lead marketers, advertisers, purchasers or consumers or investors into the belief that the products or services promoted, offered, or sponsored by Defendants come from Plaintiff, or are somehow licensed, sponsored, endorsed, or authorized by, or otherwise affiliated or connected with Plaintiff;

vi. otherwise competing unfairly with Plaintiff in any manner; and

vii. operating Defendants' Domains BRANDWEEK.NET, BRANDWEEK.ORG, BRANDWEEK.INFO, BRANDWEEKNY.COM, BRANDWEEKNY.NET, BRANDWEEKNY.ORG, BRANDWEEKNY.INF; BRAND-WEEK.COM, BRAND-WEEK.INFO, BRAND-WEEK.NET and BRAND-WEEK.ORG, or any other domain that is a derivation or colorable imitation thereof, or any domain confusingly similar thereto, including domains that constitute typographical errors of BRANDWEEK; and

viii. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above subparagraphs (i) through (vi), or effecting any assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs (i) through (vi);

B. Direct Defendants to transfer the Defendants Domains, and any other domain owned by Defendants that is a derivation or colorable imitation thereof, or any domain confusingly similar thereto, including domains that constitute typographical errors of BRANDWEEK, to Plaintiff.

C. That a judgment be entered that Defendant has infringed the Plaintiff's mark in violation of in violation of 15 U.S.C. § 1114 and has damaged Plaintiff's goodwill.

D. That a judgment be entered that Defendant has unfairly competed with Plaintiff by the acts complained of herein in violation of in violation of 15 U.S.C. § 1125(a).

E. That a judgment be entered that Defendant has unfairly competed with Plaintiff by the acts complained of herein in violation of in violation of 15 U.S.C. § 1125(d)(1).

F. That a judgment be entered that the acts of Defendant constitute unfair competition and trademark infringement in violation of the common law of the State of New York.

G. That Defendant be ordered to account and pay Plaintiff all profits derived as a result of the activities complained of herein.

H. That Defendant be ordered to pay to Plaintiff damages sustained as a result of the activities complained of herein.

I. That Defendant be ordered to pay increased damages due to its willful infringement.

J. That Defendant be ordered to pay Plaintiff's reasonable attorneys' fees and costs incurred in this action.

K. That Defendant be ordered to pay actual damages due to cyber piracy or alternately statutory damages of 100,000 for each domain.

L. That Plaintiff be awarded such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all claims and issues so triable.

Dated: Stamford, Connecticut
June 7, 2017

ST. ONGE STEWARD JOHNSTON & REENS LLC

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